

Attorney Docket No. RSW920040131US1
Serial No. 10/711,981
Response to Office Action mailed 1/25/06

I. CLAIM AMENDMENTS

1. (Currently amended) A process for allocating a resource to a premium customer by a service provider having a plurality of service level agreements with a plurality of customers, in a shared computing environment when a profiling tool indicates that the premium customer's available resource cannot provide an agreed service level, the process comprising:

classifying a plurality of customers into a plurality of premium customers and a plurality of standard customers where a premium customer is entitled to a first compensation rate when there is a breach of a premium customer's service level agreement, where a standard customer is entitled to a second compensation rate when there is a breach of the standard customer's service level agreement, and where the second compensation rate is less than the first compensation rate;

responsive to a profiling tool indicating that the premium customer's available resource cannot provide an agreed service level resulting in a breach of the premium customer's service level agreement;

determining if the resource has been allocated to an any customer that is not using the resource;

~~responsive to determining that the resource has been allocated to any customer that is not using the resource, reallocating the resource to the premium customer;~~

responsive to determining that the resource has not been allocated to the any customer that is not using the resource, determining if the resource has been allocated to a standard customer; and

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responsive to determining that the resource has been allocated to a the standard customer, re-

allocating the resource from the standard customer to the premium customer;

~~whereby so that a the service provider can minimize a penalty a compensation to be paid~~

~~to the premium customer for breaching the agreed service level.~~

2. (Currently amended) A data processing machine for allocating a resource by a service provider to a premium customer in a shared computing environment, the machine comprising:

a processor;

a memory;

a service level agreement stored in the memory, the service level agreement setting a threshold performance level for the resource and a penalty for failing to meet the threshold performance level;

means for causing the processor to measure the a performance level of the resource; and

means for causing the processor to compare the measured performance level of the resource with the threshold performance level; and

responsive to determining that the measured performance level does not meet the threshold performance level, means for

determining if the resource has been allocated to an any customer that is not using the resource,

~~responsive to determining that the resource has been allocated to any customer that is not using the resource, re-allocating the resource to the premium customer,~~

responsive to determining that the resource has not been allocated to the any customer that is not using the resource, determining if the resource has been allocated to a standard customer, and

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responsive to determining that the resource has been allocated to a standard customer,

re-allocating the resource from the standard customer to the premium customer;

~~whereby so that a~~ the service provider ~~can minimize~~ the penalty for breaching the service level agreement.

3. (Currently Amended) A program, encoded in a computer-readable medium, for allocating a resource to a premium customer by a service provider in a shared computing environment, the program comprising:

~~means for determining if the resource has been allocated to any customer that is not using the resource if a utilization of the resource has caused a breach of a service level agreement with the premium customer;~~

~~means for determining if the resource has not been allocated to an any customer that is not using the resource;~~

~~responsive to determining that the resource has been allocated to any customer that is not using the resource; means for re-allocating the resource to the premium customer;~~

responsive to determining that the resource has not been allocated to the any customer that is not using the resource, means for determining if the resource has been allocated to a standard customer where a standard customer has a standard customer penalty for a breach of a standard customer's service level agreement; and

responsive to determining that the resource has been allocated to a standard customer, means for re-allocating the resource from the standard customer to the premium customer;

~~whereby so that the~~ a service provider ~~can minimize~~ a premium customer penalty for a breach of the premium customer's service level agreement ~~breaching the agreed service level.~~